

Serial No. 10/711,316
Edward E. Kelley et al.

REMARKS

This amendment is submitted together with a Request for Continued Examination (RCE) and a petition for extension of time (two months) which extends the period for response from November 1, 2008 until January 1, 2009. The response is filed timely on January 2, 2009 since January 1, 2009 is a federal holiday within the District of Columbia.

In the Office Action, all claims were rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. US 6,325,721 to Miyamoto et al. ("Miyamoto") in view of U.S. Patent No. 6,099,409 to Brenner et al. ("Brenner"). The rejections are moot in view of the amended claims which are presented herein for consideration.

With the present amendments, claims 1, 21 and 23 are cancelled and new independent claims 24, 26 and 27 are amended versions of claims 1, 21 and 23, respectively. Each of these claims, from which all other claims now depend, directly or indirectly, now more specifically recites an invention which is believed to be fully distinguished from the combination of *Miyamoto* and *Brenner* for the reasons set forth below.

As now recited in claim 24, a method includes "displaying a plurality of sequentially ordered events by a machine and permitting a player to select a range including a fewer number of the sequentially ordered events from among the displayed plurality of sequentially ordered events." The outcome of each of the events is determined at least partly by chance and is as yet not known to the player.

Then, in step (b), before determining actual outcomes of the events, the outcome of each of the sequentially ordered events in the range is simulated. Then, the machine automatically indicates *predicted winnings* to the player which are based on predicted results of simulating the outcomes of the events in the range from the first event to an nth event accumulated with the outcome of any prior event in the range. For example, for a third (i=3) event in the range, predicted winnings for a third (i=3rd) result is indicated to the player, where the outcome of the ith (third) event is accumulated with the (i-1)th (second) result, and the (i-1)th (second) result simulates the outcome of the second event accumulated with any (i-2)th (first) result.

In step (c), the machine then permits the player to select one of the predicted results from among the predicted first through nth results indicated by the machine; and indicates, in step (d) that an account is credited for the player with predicted winnings according to the player-selected predicted result.

In step (e) the machine then permits the player to utilize the predicted winnings in exchange for determining actual outcomes of at least some of the events and adjusts an amount in the account based on the actual outcomes. Then, in step (f), after the actual outcomes of a minimum number of the events have been determined, the machine permits the player to retain the adjusted amount in the account as actual winnings.

The combination of *Miyamoto* with *Brenner* fails to teach the elements of the invention recited in independent claims 24, 26 and 27. A fundamental distinction of the

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invention claimed in claims 24, 26 and 27 lies in steps (c) through (f) of these claims. Neither *Miyamoto* nor *Brenner* teaches a machine that permits the player to select one of a plurality of predicted results of simulating the outcomes of sequentially ordered events and then indicates that *an account is credited for the player with predicted winnings* according to the player-selected predicted result. The Office Action, at page 3, concedes that *Miyamoto* does not teach these elements. *Miyamoto* merely permits a user to predict the outcome of one event, such as a particular horse race. *Miyamoto* describes a "fantasy" horse racing scheme that attempts to better predict the outcome of a single horse race by taking into account different factors such as the past race performance of each horse and race course conditions. (FIG. 3).

Applicants respectfully submit that *Brenner* does not teach these elements either. The Office Action (page 4) merely points out that *Brenner* teaches a system that allows the user to place a "pick six" wager "in which *the player predicts ahead of time* what the results for six race events will be." (*Emphasis added*). The fact that *Brenner* allows a player to predict the results for six race events does not meet the recitations of the claim. Step (b) requires that *the machine* simulate the outcomes of sequentially ordered events, not merely allow a player to predict results. Steps (b) and (c) also require that the machine indicate *predicted winnings* based on the predicted results of the events to the player and then permit the player to select one of the predicted results from among the plurality of predicted results indicated by the machine. As conceded by the Office Action, *Miyamoto* does not permit the player to select one of a plurality of predicted results indicated by the

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system. *Brenner* requires the player to make the predictions rather than the machine. The combination of *Miyamoto* and *Brenner* also does not teach a machine that indicates predicted winnings based on predicted results.

Moreover, neither *Miyamoto* nor *Brenner* teaches crediting an account for the player with *predicted winnings* based on a predicted result of simulating the outcomes of sequentially ordered events. The Office Action (at page 3) concedes that *Miyamoto* does not teach this element. *Brenner* does not teach this element either. The claim recitation requires predicted winnings to be credited for the player. *Brenner's* abstract, as cited in the Office Action (page 4), merely indicates that the "player can commit funds into an account on the wagering system that can be associated with the wagers made" which means the player pays money to place one or more bets. Paying money to place a bet is the inverse of crediting an account for the player with "predicted winnings" which requires paying the player.

Moreover, the combination of *Miyamoto* and *Brenner* fails to teach "adjusting an amount in the account based on the actual outcomes" as recited in step (e) or teach a machine that, after the actual outcomes of a minimum number of the events have been determined, permits the player "to retain the adjusted amount in the account as actual winnings" (step (f)). These steps are performed with respect to an account that is credited with "predicted winnings." The assertions made in the Office Action with respect to the teachings of *Brenner* at col.4 ll.38-46 do not meet the claim because *Brenner* does not teach adjusting an amount in an account that has been credited with "predicted winnings".

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in that *Brenner* never teaches crediting an account with predicted winnings. Likewise, *Brenner* does not permit the player to retain an adjusted amount as "actual winnings" because *Brenner* never teaches any action by which predicted winnings are converted into "actual winnings".

Independent claims 26 and 27 which have similar recitations are believed to be fully distinguished from the combination of *Miyamoto* and *Brenner* for at least the same reasons as discussed above. The remaining claims, all of which depend directly or indirectly from one of claims 24, 26 and 27 are fully distinguished from the combination of *Miyamoto* and *Brenner* for at least the same reasons as discussed above.

Moreover, at least claims 3, 11, 16 and 25 contain recitations that are believed to independently distinguish the invention therein from the combination of *Miyamoto* and *Brenner*.

Support for the present amendments is provided, *inter alia*, at paragraphs [0023] through [0028} of the specification.

In view of the present amendments and remarks, it is believed that the application is now in condition for allowance. If, for any reason, the examiner does not believe that such action can be taken at this time, it is requested that he telephone the undersigned at the number indicated below to discuss any issues that remain.

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It is believed that no fees are required upon filing this Amendment. However, if any fees are required, authorization is given to debit the Deposit Account No. 09-0457 of the Assignee International Business Machines Corporation. If there is an overpayment, please credit the same account.

Respectfully submitted,
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